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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. | | | | | | | | | | | | | | |
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| 10/099,931 | 03/14/2002 | Oliver Bremer | 944-004.002/NC 16334 US | 2705 | | | | | | | | | | | | | | |
| 4955 7590 01/03/2008 WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP BRADFORD GREEN, BUILDING 5 755 MAIN STREET, P O BOX 224 MONROE, CT 06468 | | | <table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">HENNING, MATTHEW T</td></tr><tr><td>ART UNIT</td><td>PAPER NUMBER</td></tr><tr><td>2131</td><td></td></tr><tr><td colspan="2"><table border="1"><tr><td>MAIL DATE</td><td>DELIVERY MODE</td></tr><tr><td>01/03/2008</td><td>PAPER</td></tr></table></td></tr></table> | | EXAMINER | | HENNING, MATTHEW T | | ART UNIT | PAPER NUMBER | 2131 | | <table border="1"><tr><td>MAIL DATE</td><td>DELIVERY MODE</td></tr><tr><td>01/03/2008</td><td>PAPER</td></tr></table> | | MAIL DATE | DELIVERY MODE | 01/03/2008 | PAPER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/099,931

Applicant(s)

BREMER, OLIVER

Examiner

Matthew T. Henning

Art Unit

2131

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): None.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: None.
Claim(s) objected to: _____.
Claim(s) rejected: 1,3-8,10-15,17-22 and 24-34.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: First, the examiner points out that the contended independent claims are virtually the same as the original claim language, which was rejected under the same prior art (Safadi et al.), and more importantly, the now contended limitations were present in the originally rejected claims and were not contented at that time.

In response to applicant's argument, with regards to claim 22, and its dependent claims, that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "consumes the protected content without requiring content personalization assistance from the network infrastructure") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Note that simply because the claim does not recite any specific content personalization assistance from the network infrastructure, does not mean that the claim inherently recites that the consumption is "without assistance".

Regarding applicants' argument that Safadi "does not teach or suggest that a wireless recipient consumes protected content without requiring content personalization assistance from the network infrastructure", the examiner is still not persuaded of such. The applicants have failed to show how this allegation is true, but rather are simply alleging that it is true. The network infrastructure relied upon by the examiner is shown in Fig. 1 as "Playback Area Network (PAN) 20". PAN 20 of Safadi does not assist the recipient in the actual consumption of the content. Note that Paragraph 0044 of Safadi states "[t]he receiver/playback device (30) will either store the content for later use or decrypt the content for playback". Nowhere does Safadi state that playback (consumption of the content) requires any assistance from PAN 20.

Regarding applicants' argument that there "must be assistance from the headend...to the PVR" and thus content personalization assistance from the network infrastructure to consume the content, the examiner does not find the argument persuasive. Once again, the network infrastructure of Safadi being relied upon is the PAN 20. The communications between the PVR and headend have nothing to do with the playback (consumption) of the content, but rather deal with the providing of the content to the playback device. Again, the claims do not recite "providing the content to a recipient without content personalization assistance from the network infrastructure".


Regarding applicants' argument that there must be assistance from the headend for the recipient to consume the content, the examiner points out that "determining approval" is not content personalization, let alone assistance with playback of content that is within the playback device. Furthermore, Safadi does not disclose that the headend part of PAN 20, and thus not part of the network infrastructure.

The examiner further notes that "reportback" is neither content personalization nor required by the system of Safadi. Rather this an optional feature which can be part of the authorization for the PVR to provide the content to the playback device.

The examiner further notes that a network infrastructure is an infrastructure of a network. In this case the PAN 20 is the network relied upon by the examiner. Note that PAN does not include the devices 10 or 30. Rather, these devices use the network to communicate with each other. Further note that the headend of Safadi is not part of PAN 20. An infrastructure is the underlying base or foundation of a system. So a network infrastructure, as would be understood in the art, is "the underlying base or foundation of a network". In other words, it is the components that make up the communication network. It is not the devices that communicate using the network. For example, a router, wireless transceiver, a network bridge, and the cables connecting these devices are part of the network infrastructure. The playback devices, the PVR, and the headend, are not part of the underlying base or foundation of the network.

The examiner further notes once again that the PVR interacting with the headend is not content personalization assistance provided to the playback device.

The examiner does not find any of the applicants' arguments persuasive and as such has maintained the previous rejections.


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